

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

NISSAN NORTH AMERICA, INC.

and

**Cases 15-CA-171184
15-CA-175295**

**INTERNATIONAL UNION, AUTOMOBILE,
AEROSPACE AND AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA (UAW),
AFL-CIO**

KELLY SERVICES, INC.

and

**Cases 15-CA-171197
15-CA-175297**

**INTERNATIONAL UNION, AUTOMOBILE,
AEROSPACE AND AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA (UAW),
AFL-CIO**

ORDER

Holmes Community College's Petition to Revoke subpoena duces tecum B-1-SDIEML is granted, without prejudice to the Regional Director's issuance of another subpoena to Holmes seeking the same information in the event that the Regional Director determines that the information is not available from the parties to this proceeding.

Although the Regional Director has the authority to issue this subpoena to Holmes, a non-party in this proceeding,¹ and the subpoena seeks information relevant to the matters under investigation and describes with sufficient particularity the evidence

¹ See e.g., *Link v. NLRB*, 330 F.2d 437 (4th Cir. 1964).

sought,² we note the unique circumstances of this case and consider the subpoena in this context. In particular, we observe that the same information at issue here has been requested from Charged Parties Nissan North America, Inc. and Kelly Services, Inc.³ and that those parties do not face the potential burden described by Holmes of complying with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232(g).⁴

Dated, Washington, D.C., November 2, 2016

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

² See Sec. 11(1) of the Act and Sec. 102.31(b) of the Board's Rules and Regulations. In light of the disposition of this case, Member Miscimarra makes no determination as to the relevancy and the particularity of the subpoena at this time.

³ The Regional Director also issued to Nissan North America, Inc. and Kelly Services, Inc. subpoenas seeking much of the same information sought from Holmes. Nissan and Kelly filed petitions to revoke those subpoenas, and by Orders dated October 28, 2016 we denied those petitions.

⁴ For the purposes of evaluating the petition to revoke the subpoena, we accept, without deciding, Holmes' representation that FERPA applies here.

We further note that the Region states in its opposition to the petition that Holmes has indicated that it is unaware of any documents responsive to paragraphs 1 through 5 and 10. Accordingly, it appears that paragraphs 6 – 9 are the paragraphs at issue.